

REMARKS

[0001] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 3-8, 19-24, 28, 31 and 50 are presently pending. Claim 19 is amended herein. Claim 50 is added herein as new.

Formal Request for an Interview

[0002] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0003] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Claim Amendments and Additions

[0004] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claim 19 herein. Applicant amends claims to clarify claimed features.

[0005] Claim 19 is amended to include subject matter from the specification. Support for the amendments to claim 19 is found in the specification at least at paragraph 16 at page 4-5.

[0006] Furthermore, Applicant adds new claim 50 herein, which are directed towards a cavity formed by the bay and the struts. These new claims are fully supported by Application and therefore do not constitute new matter. Support for claim 50 is found in the specification at least at paragraph 16 at page 4-5.

Substantive Matters

Claim Rejections under § 112 1st ¶

[0007] Claims 3-8, 19-24, 28 and 31 are rejected under 35 U.S.C. § 112, 1st ¶. Applicant respectfully traverses these rejections. Furthermore, in light of the amendments presented herein, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

Claim Rejections under § 102

[0008] The Examiner rejects claims 3-8, 19-24, 28, and 31 under § 102. For the reasons set forth below, the Examiner has not shown that the cited reference anticipates the rejected claims.

[0009] Accordingly, Applicant respectfully requests that the § 102 rejections be withdrawn and the case be passed along to issuance.

[0010] The Examiner's rejections are based upon the following reference:

- **Fremont FR 2618121:** *Fremont* French Patent No. 2618121.

Anticipation Rejections

[0011] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon Fremont FR 2618121

[0012] The Examiner rejects claims 3-8, 19-24, 28 and 31 under 35 U.S.C. § 102(b) as being anticipated by Fremont FR 2618121. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 19

[0013] Applicant submits that Fremont FR 2618121 does not anticipate this claim because it does not disclose the following elements as recited in this claim:

- “a bay disposed below the top deck and accessible via an opening defined by the hull[.]”

¹ “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

[0014] The Examiner indicates (Action, p. 3) the following with regard to this claim:

FR '121 shows a vessel [6] with a bay disposed in a frame (figure 1). The bay is operable to receive a mission module [1]. The specific mission of the module is to provide equipment and resources for the accommodation/seating of the crew and/or passengers. The vessel and the module are interconnected at an interface through internal passages (fig. 5a and fig. 5b). The interface is capable of allowing a releasable coupling of the module - and the module's equipment and resources -- with the vessel. A mounting structure [5] is used to releasably hold the mission module in the bay (fig. 1). While the mission module is coupled with the vessel, the module's equipment and resources enable the vessel to perform the specific mission of accommodating/seating the crew and/or the passengers. The vessel is not enabled to perform the specific mission when the module is not coupled with the vessel. The limitation "configured to" has been interpreted to mean "capable of".

[0015] The applicant respectfully asserts that claim 19, as amended, is patentable over Fremont FR 2618121 at least because this reference does not teach the recitations as amended in claim 19.

[0016] Fremont FR 2618121 may teach a water vessel having a passenger compartment that may be releasably mounted to the hull of the vessel so that if the vessel begins to sink, the crew and/or passenger compartment can be released from the vessel to provide the crew and passengers safe accommodations until they are rescued. However, Fremont FR 2618121 cannot possibly be construed to teach "a bay disposed below the top deck and accessible via an opening defined by the hull[.]" Fremont FR 2618121 teaches a bay that is disposed on the top-side of the ship. Naturally, this is the case as any

evacuation of a ship that is sinking would require the passenger compartment to be located near or on the top-side of the hull. However, there is no possible way to construe the passenger compartment as being disposed in a bay that is below the top deck and accessible via an opening defined by the hull.

[0017] Further, Fremont FR 2618121 cannot possibly be construed to teach the accessibility of the bay defined by an opening in the hull. There is simply no teaching anywhere in Fremont FR 2618121 about any kind of bay disposed below a top-deck and formed by the hull itself. Fremont FR 2618121 merely shows in all descriptions and figures a more conventional ship hull that does not have any struts or lower hull portions. It is simply a single large hull. As such, the bay itself in Fremont FR 2618121, is incapable of forming a cavity between any struts such that water may freely flow though of the bay. In fact, if water were to freely flow in and out of the bay in Fremont FR 2618121, surely the entire vessel would be compromised and sink.

[0018] Consequently, Fremont FR 2618121 does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 3-8, 20-24, 28, and 31

These claims ultimately depend upon independent claim 19. As discussed above, claim 19 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Conclusion

[0019] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact me before issuing a subsequent Action. Please call or email me at your convenience.

[0020] In the event additional fees are due as a result of this amendment, payment for those fees has been enclosed in the form of a check. Should further payment be required to cover such fees you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Respectfully Submitted,

Graybeal, Jackson, Haley, LLP
Representatives for Applicant

/Kevin D. Jablonski/
Kevin D. Jablonski (kevin@graybeal.com)
Registration No. 50,401
USPTO Customer No.: 00996

Dated: July 29, 2008

Telephone: (425) 455-5575
Facsimile: (425) 455-1046